



JOINT MEETING MILPITAS CITY COUNCIL AND SUCCESSOR AGENCY AGENDA

TUESDAY, DECEMBER 2, 2014



455 EAST CALAVERAS BOULEVARD, MILPITAS, CA
6:00 P.M. (CLOSED SESSION) • 6:30 P.M. (SPECIAL MEETING) • 7:00 P.M. (REGULAR MEETING)

CLOSED SESSION

I. CALL TO ORDER/ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING

Pursuant to California Government Code Section 54957.6

City Negotiators: Tom Williams, Carmen Valdez

Employee Groups: Mid-Management and Confidential (MidCon), Milpitas Professional and Technical Group (ProTech), Milpitas Employees Association (MEA)

Under Negotiation: Wages, Hours, Benefits and Working Conditions

III. CLOSED SESSION ANNOUNCEMENT: Report on any action taken in Closed Session, if required pursuant to Government Code §54957.1, including the vote or abstention of each member present

SPECIAL MEETING OF THE CITY COUNCIL

IV. CALL TO ORDER/ROLL CALL (6:30 p.m.)

V. APPROVAL OF AGENDA/CONSENT CALENDAR (*Item with asterisk**)

VI. * Adopt a Resolution Approving a New Memorandum of Understanding with International Association of Fire Fighters 1699 (Staff Contacts: Mike Ogaz, 408-586-3040 and Carmen Valdez, 408-586-3086)

VII. ADJOURNMENT

REGULAR MEETING OF THE CITY COUNCIL

SUMMARY OF CONTENTS

VIII. ROLL CALL (7:00 p.m.)

IX. PLEDGE OF ALLEGIANCE

X. INVOCATION

XI. REPORT OF ELECTION RESULTS AND CERTIFYING RESOLUTION

- 1. Report of Municipal Election Results of November 4, 2014, and Adopt Resolution to Certify Final Results (Staff Contact: Mary Lavelle, 408-586-3001)**

XII. PRESENTATIONS

- to outgoing Vice Mayor Althea Polanski
- to outgoing City Councilmember Armando Gomez

XIII. SWEARING-IN OF MAYOR JOSE ESTEVES

- Ceremonial Oath administered by Charles T. Munger, Jr., Chairman of the Santa Clara County Republican Party. Mr. Munger, Jr. is also an experimental physicist with a Ph.D. in atomic physics from the University of California at Berkeley.

XIV. SWEARING-IN OF NEWLY ELECTED CITY COUNCILMEMBERS

- City Councilmember Marsha Grilli
- City Councilmember Garry Barbadillo

XV. REMARKS FROM THE MAYOR

*** Break for Reception and Refreshments in City Hall Lobby Rotunda ***

XVI. APPROVAL OF COUNCIL MEETING MINUTES – November 18, 2014

XVII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR for December 2014

XVIII. PUBLIC FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

XIX. ANNOUNCEMENTS

XX. ANNOUNCEMENT OF CONFLICT OF INTEREST

XXI. ELECTION OF VICE MAYOR

XXII. APPROVAL OF AGENDA

XXIII. CONSENT CALENDAR (*Items with asterisk)**

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

XXIV. UNFINISHED BUSINESS

- * 2. Receive Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)**

XXV. NEW BUSINESS

- * 3. Consider Request from Non-profit Milpitas Firefighters Toy Program for a \$500 Donation Toward Holiday Toy Program (Staff Contact: Mary Lavelle, 408-586-3001)

XXVI. ORDINANCES

- 4. Consider Resolution and Introduction of Ordinance No. 128.12 for Changes to Mayor and City Council Salaries (Contact: Debbie Giordano, 408-586-3032)
- * 5. Waive the Second Reading and Adopt Ordinance No. 38.818 Amending the Zoning Sectional District Map (Staff Contact: Lisa Costa Sanders, 650-333-0248)

XXVII. RESOLUTIONS

- * 6. Adopt a Resolution Declaring Weeds on Certain Properties to be a Public Nuisance and Setting a Public Hearing for January 6, 2015 to Hear Objections (Staff Contact: Albert Zamora, 408-586-3371)
- * 7. Adopt a Resolution Granting Final Acceptance of the Park Renovation Project 2011, Project No. 5091 (Staff Contact: Steve Erickson, 408-586-3301)
- * 8. Adopt a Resolution Approving Final Acceptance and Releasing Warranty Security for Cerano Apartments Project (Fairfield), Project No. 3170 (Staff Contact: Ahmed Aly, 408-586-3325)
- * 9. Adopt a Resolution Making Findings for Unexpended Development Fees and Review and Accept the Annual Developer Fee Disclosure Information Pursuant to the Mitigation Fee Act (Staff Contact: Emma Karlen, 408-586-3145)

XXVIII. AGREEMENTS

- * 10. Approve a Consultant Agreement with HF&H Consultants for Request for Proposals Consultation and Solid Waste Services Contract Negotiation with Republic Services (CIP No. 3401) (Staff Contact: Steven Machida, 408-586-3355)
- * 11. Authorize City Manager to Execute a Mutual Aid Agreement with the City of Fremont for Emergency Response Services (Staff Contact: Chief Robert Mihovich, 408-586-2811)
- * 12. Approve Amendment No. 1 to the Agreement with Norma Nelson for Part Time Buyer Services in the Not-To-Exceed Amount of \$14,300 (Staff Contact: Chris Schroeder, 408-586-3161)

XXIX. DEMAND

- * 13. Authorize the City Manager to Close Out an Agreement with Perata Consulting, LLC for Consulting Services (Staff Contact: Tom Williams, 408-586-3050)

XXX. MEETING OF THE SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY

SA1. Call to Order/Roll by the Mayor/Chair

SA2. Approval of Agenda/Consent Calendar

SA3. Adopt a Resolution of the Board of the Successor Agency to the Former Milpitas Redevelopment Agency Approving the Issuance of Refunding Bonds in order to Refund Certain Outstanding Bonds of the Former Milpitas Redevelopment Agency, Approving the

Execution and Delivery of an Indenture of Trust Relating Thereto, and Providing for Other Matters Properly Relating Thereto (Staff Contact: Emma Karlen, 408-586-3145)

SA4. Adjourn Meeting

XXXI. ADJOURNMENT

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035 e-mail: mogaz@ci.milpitas.ca.gov / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website.

All City Council agendas and related materials can be viewed online here: www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Seeking Applications for:

Bicycle Pedestrian Advisory Commission
Economic Development Commission (MUSD member)
Planning Commission
Recycling and Source Reduction Advisory Commission (Business and MUSD members)
Telecommunications Commission
Veterans Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office at 408-586-3001 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 408-586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings in that facility.

AGENDA REPORTS

SPECIAL MEETING OF THE CITY COUNCIL

VI. * Adopt a Resolution Approving a New Memorandum of Understanding with International Association of Fire Fighters 1699 (Staff Contacts: Carmen Valdez, 408-586-3086)

Background: The Memorandum of Understanding (MOU) with the Fire union (IAFF Local 1699) expired in December of 2012. Since that date, the City and the union have been negotiating a new contract. In addition, the union filed a lawsuit and filed a charge with PERB challenging several management decisions affecting the Fire union.

This proposal, confirmed by an affirmative vote of the Fire union membership, provides for a new MOU that will be in effect through the end of December 2016 and also provides for dismissal of the lawsuit and administrative challenge filed with PERB. The proposed MOU and Settlement Agreement are included in the City Council's agenda packet. The draft MOU document was available for public review for the 10 day period required.

Fiscal Impact: Year one impact is \$1,359,852; year two impact is \$1,678,121.

Recommendation: Adopt a resolution approving (1) City of Milpitas and International Association of Fire Fighters (IAFF) Local 1699 Settlement Agreement and (2) a new Memorandum of Understanding between the City of Milpitas and International Association of Fire Fighters Local 1699.

REGULAR MEETING OF THE CITY COUNCIL

XI. REPORT OF ELECTION RESULTS AND CERTIFYING RESOLUTION

1. Report of Municipal Election Results of November 4, 2014, and Adopt Resolution to Certify Final Results (Staff Contact: Mary Lavelle, 408-586-3001)

Background: A general municipal election was held in the City of Milpitas on Tuesday, November 4, 2014 for the offices of Mayor and two members of the City Council. Final election results reveal the candidates elected by the voters of Milpitas were Jose Esteves as Mayor, and Marsha Grilli and Garry Barbadillo as new City Councilmembers. Mr. Esteves was elected from a field of three candidates, and Mrs. Grilli and Mr. Barbadillo were elected from a field of eight candidates. Certified final results will be included with the Resolution presented for adoption at this meeting. The Santa Clara County Registrar of Voters was scheduled to certify the final election results on Tuesday, December 2, 2014 exactly 28 days following the election, as required by California Elections Code.

Also on the ballot was Ballot Measure E, regarding a proposed casino card room, and the ballot measure failed by a vote of 24% in favor with 76% opposed.

The City Council is asked to confirm the Official Canvass of Returns of the November 4, 2014 Municipal Election by Resolution.

Recommendations: Receive from the City Clerk an oral report of election results and turnout. Adopt a resolution confirming the official canvass of election returns and declaring the results of the General Municipal Election held on November 4, 2014.

XXIV. UNFINISHED BUSINESS

- * 2. **Receive Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)**

Background: From October 13 through November 6, 2014, the Bay Area Air Quality Management District (BAAQMD) received three odor complaints originating in Milpitas. One complaint identified a garbage odor, one complaint identified a sewage odor, and one complaint did not identify an odor source. As of the last Council update, the City's odor reporting website has received thirty-one reported complaints.

Recommendation: Receive the odor report update.

XXV. NEW BUSINESS

- * 3. **Consider Request from Non-profit Milpitas Firefighters Toy Program for a \$500 Donation Toward Holiday Toy Program (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: The City Clerk received a "Donation or Fee Waiver/Reduction Request Application Form" on November 12 from the Milpitas Firefighters Toy Program, a 501(c)(3) non-profit organization located in Milpitas. The program seeks donations of toys and money each holiday season, and then distributes those to needy children and families throughout Milpitas. The Toy Program has requested a donation of \$500. The request is within the amounts allowed in the Council's adopted policy.

Fiscal Impact: \$20,000 was approved and included in the FY 2014-15 City budget for the City Council's Unallocated Community Promotions. If the current donation request is approved, then \$15,290.25 would be the remaining balance.

Recommendation: Consider the request from the Milpitas Firefighters Toy Program and approve a \$500 donation to the 2014 Milpitas Firefighters Toy Drive.

XXVI. ORDINANCES

- 4. **Consider Resolution and Introduction of Ordinance No. 128.12 for Changes to Mayor and City Council Salaries (Contact: Debbie Giordano, 408-586-3032)**

Background: On July 10, 2010, the City Council voluntarily voted to reduce the salary of City Councilmembers and the Mayor by approximately 6% due to the economic downturn and scarcity of municipal revenues. Then on March 8, 2012, the City Council voluntarily voted to further reduce the salary and car allowance of City Council persons and the Mayor such that a total of 10% reduction took effect beginning December of 2012 and in addition after that date the Council forfeited dental, vision and medical benefits unless the individual chose to pay the premiums. In light of the economic upturn and increasing municipal revenues, an increase in Council salaries is appropriate. State Law provisions would allow for a 60% salary increase for the City Council since it has been 12 years since an increase was last authorized. It is prudent to provide restoration offsetting the aforementioned salary reductions and a 5% salary increase under this ordinance.

Fiscal Impact: The 5% salary increase is \$2,714 per year for all 5 members.

Recommendations:

1. Adopt Resolution fully restoring Council salaries.
2. Following the reading of the title, move to waive the first reading beyond the title of Ordinance No. 128.12.
3. Move to introduce Ordinance No. 128.12 amending Section 2, Chapter 14, Title I of the Milpitas Municipal Code providing for a 5% increase in Council salaries.

- * 5. **Waive the Second Reading and Adopt Ordinance No. 38.818 Amending the Zoning Sectional District Map (Staff Contact: Lisa Costa Sanders, 650-333-0248)**

Background: On November 18, 2014, the City Council introduced Ordinance No. 38.818 to amend the Zoning Sectional District Map for a zone change of a 9.45-acre site from Industrial Park (MP-S) to Multi-Family High Density Residential (R-3) that was approved as part of the iStar Residential Project. Ordinance 38.818 is now ready for a second reading and adoption.

Recommendation: Waive the second reading and adopt Ordinance No. 38.818 for Zone Change No. ZA14-0010, iStar residential project at 1210 California Circle.

XXVII. RESOLUTIONS

- * 6. **Adopt a Resolution Declaring Weeds on Certain Properties to be a Public Nuisance and Setting a Public Hearing for January 6, 2015 to Hear Objections (Staff Contact: Albert Zamora, 586-3371)**

Background: The County of Santa Clara Department of Agriculture and Environmental Management has notified the City of Milpitas that it is commencing its Hazardous Vegetation Abatement (weed abatement) program for the forthcoming 2015 season. The County has requested the City adopt a resolution declaring weeds to be a public nuisance and to schedule a public hearing to hear objections to the proposed destruction and / or removal of weeds. A resolution, declaring weeds on specific properties to be a public nuisance, is adopted by the Council each year. The City then holds a public hearing to give affected property owners an opportunity to appear before the Council to dispute the designation of their property as a public nuisance. The public hearing will be scheduled for January 6, 2015.

Recommendations:

1. Adopt a resolution declaring weeds on specific properties to be public nuisances.
2. Set a public hearing on January 6, 2015.

- * 7. **Adopt a Resolution Granting Final Acceptance of the Park Renovation Project 2011, Project No. 5091 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: This project was initially accepted on November 19, 2013, and has passed the one-year warranty period. A final inspection of the installed public improvements has been made and the work was found to be satisfactory. The project provides for repairs to the pathways at Pinewood Park and Albert J. Augustine Jr. Memorial Park. The project also includes the installation of Americans with Disabilities Act (ADA) compliant curb ramps connecting the pathways to City sidewalks. Staff recommends the Council grant final project acceptance of the Park Renovation Project 2011, Project No. 5091 and releases the contractor's bond.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance of the Park Renovation Project 2011, Project No. 5091 and release of the contractor's bond.

- * 8. **Adopt a Resolution Approving Final Acceptance and Releasing Warranty Security for Cerano Apartments Project (Fairfield), Project No. 3170 (Staff Contact: Ahmed Aly, 408-586-3325)**

Background: The Cerano Apartments Project, Project No. 3170, was initially accepted by the City Council on August 6, 2013 and has passed the one-year warranty period. The project scope of work included construction of Cerano Park (a public park with tennis courts, restrooms, basketball court, and playground equipment) off of Murphy Ranch Road, trail head access to Coyote Creek levee trail, Bellew Storm Pump Station retrofit improvements (electric motors and

generator), traffic signal improvements at the intersection of Tasman and McCarthy, and frontage improvements including new landscaped median on Murphy Ranch Road. A final inspection of the installed public improvements has been made, and they were found to be satisfactory.

Fiscal Impact: None.

Recommendation: Adopt a resolution approving the final acceptance of and releasing warranty security for the Cerano Apartments (Fairfield), Project No. 3170.

* **9. Adopt a Resolution Making Findings for Unexpended Development Fees and Review and Accept the Annual Developer Fee Disclosure Information Pursuant to the Mitigation Fee Act (Staff Contact: Emma Karlen, 408-586-3145)**

Background: California Government Code Section 66000 et seq. ("Mitigation Fee Act") requires local agencies to provide an accounting of fees charged for development projects. The City has two basic accounting and reporting responsibilities under the Government Code. Section 66001(d) requires that, five years after collecting a development fee subject to this code section and every five years thereafter, the local agency shall make findings with respect to any portion of the fee remaining unexpended, whether committed or uncommitted. If the required findings are not made, the unexpended funds shall be refunded to the current property owners.

Findings must:

1. Identify the purpose of the fee;
2. Demonstrate a reasonable relationship between the fee and the purpose for which it was charged;
3. Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements; and
4. Designate the approximate dates on which these funding sources can be expected to be deposited into the appropriate account or fund.

When sufficient funds have been collected to complete financing on incomplete public improvements, the local agency has 180 days to identify an approximate date by which the construction of the public improvement will begin or else is required to refund the unexpended fees, including accrued interest, to the current owner of lots or units of the development project.

The second requirement set forth under Government Code Section 66006(b)(1) provides that the City shall establish separate capital improvement accounts or funds for each improvement funded by project development fees. Any interest income earned by funds in such an account shall be deposited in such account. Each local agency is required on an annual basis, within 180 days after fiscal year end, for each separate account, to make available to the public the following information:

1. Brief description of the type of fee in the account;
2. The amount of the fee;
3. The account's beginning and ending balance;
4. The amount of fees collected and the interest earned;
5. A description of the improvements on which the funds were expended and the amount expended on each improvement including the percentage of the improvement funded with development fees;
6. An approximate date by which the construction of a public improvement will begin if the local agency determines that sufficient funds have been collected to complete financing on the incomplete improvement;
7. A description of each inter-fund transfer or loan made from the account; and
8. The amount of any refunds made pursuant to Code Section 66001.

The City deposits mitigation fees subject to the above disclosure in the Traffic Impact Fee Fund, Storm Drain Development Fund, and Park Development Fee Fund to track these development

related fees. Interest income is allocated to the funds based on their respective monthly cash balances. Expenditures from these funds were in the form of capital improvement projects to either renovate existing facilities or maintain the existing level of service, consistent with the General Plan and approved Capital Improvement Plan due to increased demand related to the development projects.

Status reports (included in the agenda packet) summarize the Non-Transit Area Traffic Impact Fee for the Fiscal Year 2013-14 and Transit Area Specific Plan (TASP) Traffic Impact Fee for the period from Inception through fiscal year ended June 30, 2014 (Exhibit 1); Storm Drain Development Fee for the Fiscal Year 2013-14 (Exhibit 2); and Park Development Fee for the period from Inception through fiscal year ended June 30, 2014 (Exhibit 3). Reports show the amount of fees collected in fiscal year 2013-14 for Non-Transit Area and from inception through fiscal year-ended June 30, 2014 for TASP and Park Development Fund, interest income, a brief description of the projects funded, the percentage of the projects funded by the development fees, and the beginning and ending balance of the funds.

Ending fund balances at the end of June 30, 2014 are as follows:

Fund	FY 2013-14 Revenues Collected	FY 2013-14 Expenditures	Ending Fund Balance
Non-Transit Area Traffic Impact	\$279,819	(\$0)	\$1,811,161
TASP Traffic Impact Fee	\$11,318,518	(\$4,953,901)	(\$9,072,828)
Storm Drain Development Fee	\$659,574	(\$0)	\$1,173,251
Park Development Fee	\$38,321	(\$350,000)	\$4,095,051

A deficit in the TASP Traffic Impact Fee Fund is due to amount spent on capital expenditures exceeded TASP development fees collected to date. Prior loans were made from other funds to the TASP Traffic Impact Fee Fund to advance the cost of the required TASP traffic public infrastructure and will be paid back to those funds when TASP fees are collected in the future. However, there have not been any loans made from the accounts during the past fiscal year. As of June 30, 2014, the City has not refunded any of the development fees outlined above.

Staff identified traffic impact fees of \$3,080, which were collected in FY 2008-09 from a development project, for traffic impact mitigation on Montague Expressway, that is over five years. These funds will be appropriated into existing and future capital improvement projects to fund widening improvement on Montague Expressway within City limit. The Montague Expressway Widening project is over \$42 million and the City's share of the cost is approximately \$10 million.

Fiscal Impact: None. There is no fiscal impact for the recommended action.

Recommendation: Adopt a resolution of the City of Milpitas making certain findings pursuant to the Mitigation Fee Act for fiscal year 2013-14 regarding continuing need for unexpended development fees and review and accept the annual developer fee disclosure information.

XXVIII. AGREEMENTS

- * 10. **Approve a Consultant Agreement with HF&H Consultants for Request for Proposals Consultation and Solid Waste Services Contract Negotiation with Republic Services (CIP No. 3401) (Staff Contact: Steven Machida, 408-586-3355)**

Background: On August 4, 2009, the City of Milpitas entered into an agreement with HF&H Consultants for assistance with the financial, regulatory and technical management of current solid waste services and for long-term planning of future solid waste services. The current contract will expire on December 4, 2014.

On January 30, 2014, City of Milpitas engineering staff solicited proposals from qualified candidates for on-call professional services to assist the City to review water, sanitary sewer, storm drain, streets, lighting, signals and solid waste issues. HF&H qualified to be on this on-call list.

Staff recommends continuing using the services of HF&H on the solid waste issues, due to the firm's expertise and previous work the company completed. HF&H's existing contract has approximately \$55,525 remaining. The City's exclusive franchise agreement with Republic Services for solid waste and recycling services will expire on September 5, 2017. Therefore, at this time the City Council is requested to approve a consultant agreement with HF&H to assist the City in determining whether to proceed with a Request for Proposals for solid waste and recycling services or to continue the agreement with Republic Services.

Fiscal Impact: None. There are sufficient funds in the project budget.

Recommendation: Approve a consultant agreement with HF&H Consultants for RFP Consultation and Solid Waste Services contract negotiations with Republic Services in the amount of \$55,525, covering the time period from December 2, 2014 to December 1, 2019.

- * **11. Authorize City Manager to Execute a Mutual Aid Agreement with the City of Fremont for Emergency Response Services (Staff Contact: Chief Robert Mihovich, 408-586-2811)**

Background: Milpitas and Fremont have historically provided mutual aid assistance to the other upon request to the benefit of the two cities. Milpitas Fire and Fremont Fire are looking to formalize the agreement to provide emergency services to the extent at which they are capable, in the capacity of emergency medical assistance, rescue and fire response, as well as all other emergency scenarios deemed necessary. It is to the benefit of the citizens to ensure that supplemental and reciprocal assistance is readily available when requested and obtainable. The agreement will be effective from the date of Council approval, with an anticipated end date of December 31, 2019. The agreement is included in the Council's agenda packet for further review.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to execute the Mutual Aid Agreement with the City of Fremont for Emergency Response Services.

- * **12. Approve Amendment No. 1 to the Agreement with Norma Nelson for Part Time Buyer Services in the Not-To-Exceed Amount of \$14,300 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On August 6, 2014, the City entered in to an agreement with Norma Nelson to provide contractual services as a part time Buyer in the amount of \$19,965.00 for the period August 6, 2014 to December 5, 2014. The Finance Department is in the process of recruiting and hiring a full time buyer. During the recruitment period, additional services are needed to assist the Purchasing Agent to fulfill the purchasing function Citywide. Staff recommends extending the contract with Norma Nelson to February 27, 2015 for the not to exceed amount of \$14,300 bringing the total amount of the contract to \$34,265.

Fiscal Impact: \$14,300. Funds for this purchase are available from the Finance Department operating budget.

Recommendation: Approve Amendment No. 1 to the agreement with Norma Nelson for services as a Buyer for the City in the not-to-exceed amount of \$14,300 for the period from December 6, 2014 to February 27, 2015.

XXIX. DEMAND

- * 13. **Authorize the City Manager to Close Out an Agreement with Perata Consulting, LLC for Consulting Services (Staff Contact: Tom Williams, 408-586-3050)**

Background: The City utilized Perata Consulting to pursue viable and legal options in implementing the dissolution of redevelopment, asset management and economic development programs. At this time, the City has completed its efforts.

The scope of services that Perata Consulting, LLC provided for the benefit of the City were the following:

- Advised and recommended strategy to the City Manager on specific potential legislative options to offset funding lost from the repeal of redevelopment;
- Developed, organized, and directed legislative strategy for required statutory changes needed for City to pursue its economic development plans;
- Advised City to spearhead a coalition to support its economic development initiative; and
- Liaised with the Governor's Office, especially the Department of Finance and Go Biz, to negotiate its cooperation on the City's redevelopment initiative.

Fiscal Impact: Fees will not exceed \$100,000 and will be funded by the City Manager's current fiscal year's budget.

Recommendation: Authorize the City Manager to close out agreement and make final payment to Perata Consulting, LLC for consulting services.

XXX. MEETING OF THE SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY

- SA3. **Adopt a Resolution of the Board of the Successor Agency to the Former Milpitas Redevelopment Agency Approving the Issuance of Refunding Bonds in order to Refund Certain Outstanding Bonds of the Former Milpitas Redevelopment Agency, Approving the Execution and Delivery of an Indenture of Trust Relating Thereto, and Providing for Other Matters Properly Relating Thereto (Staff Contact: Emma Karlen, 408-586-3145)**

Background: The Former Milpitas Redevelopment Agency issued its Redevelopment Project Area No. 1 2003 Tax Allocation Bonds ("2003 TABs") secured by tax increment revenues derived from the Redevelopment Project Area No. 1. The current outstanding par amount of the 2003 TABs is \$145,990,000 and the bonds are callable on any date at par value or at 100%.

Section 34177.5 of the California Health and Safety Code authorizes the Successor Agency to issue refunding bonds for the purpose of achieving the debt service savings within the parameters set forth in Section 34177.5(a)(1). The issuance of refunding bonds is subject to the approval of the Oversight Board and ultimately the review and approval of the Department of Finance. A separate resolution has been submitted to the Oversight Board for their approval and an Oversight Board meeting has been scheduled on December 2, 2014 to consider this matter.

Staff has determined, in consultation with its Financial Advisor, that current bond market conditions are favorable for the issuance of refunding bonds to refinance the outstanding 2003 TABs. The Debt Service Savings Analysis Report estimated average annual debt service savings based on current market conditions to be approximately \$1.3 million per year beginning in 2016. Any debt service savings as a result of the refunding will increase the amount of property tax revenues that can be distributed to all the taxing entities.

Approval of the attached Resolution will authorize the issuance and sale of the Successor Agency to the Former Milpitas Redevelopment Agency 2015 Tax Allocation Refunding Bonds (Redevelopment Project Area No. 1) (the “Refunding Bonds”) to refund the outstanding 2003 TABs. The Resolution will also approve execution of an Indenture of Trust and other legal documents described below:

Indenture of Trust – The Indenture of Trust (“Indenture”) is by and between the Successor Agency and U.S. Bank National Association as Trustee. The Refunding Bonds shall be issued pursuant to the law governing the dissolution of redevelopment agencies and pursuant to the Indenture. The Indenture describes the terms of the Refunding Bonds, and contains provisions relating to the redemption, prepayment, defeasance, default and amendment of or to the Refunding Bonds. Pursuant to the Resolution, the Successor Agency authorizes the delivery and performance by the Successor Agency of the Indenture and approves the covenants set forth in the Indenture.

Bond Purchase Agreement - The Bond Purchase Agreement authorizes the Successor Agency to sell the Refunding Bonds to an Underwriting Syndicate (the “Underwriter”). The Bond Purchase Agreement outlines the conditions under which the refunding bonds will be issued, and requires the Successor Agency to make a number of covenants and representations.

Irrevocable Refunding Instructions – The Irrevocable Refunding Instructions are from the Successor Agency to the Trustee (U.S. Bank) acting as trustee for the 2003 TABs (the “Prior Trustee”) and specify the terms and conditions to provide for the payment and redemption of the outstanding 2003 TABs.

The Resolution further authorizes the “Authorized Officers” who are identified as the Successor Agency Chair, the Successor Agency Executive Director, or the Successor Agency Assistant Executive Director of the City to subsequently execute certain documents and take other official actions necessary for issuing the Refunding Bonds, on behalf of the Successor Agency.

Refunding Process:

It is anticipated that the refunding will take approximately four months to complete. Key milestones to complete the refunding are identified below:

- Oversight Board and Successor Agency Board’s approval to retain consultants to initiate the refunding of the 2003 TABs (Completed – November 3, 2014 and November 18, 2014)
- Successor Agency approving resolution to refund 2003 TABs and approving legal documents (tonight’s recommended action)
- Oversight Board’s approval of Successor Agency action to issue the Refunding Bonds and make determination of savings (December 2, 2014)
- Submission of resolutions of both the Successor Agency and Oversight Board and all the related documents to the Department of Finance (December, 2015)
- Secure underlying credit ratings and potentially bond insurance and reserve fund surety (February, 2015)
- Receive Department of Finance’s Approval (February, 2015)
- Successor Agency Approval of the Preliminary Official Statement and remaining financing documents (February, 2015)
- Negotiated sale of Bonds (March, 2015)
- Bond Closing and payoff of outstanding 2003 TABs (April, 2015)

Fiscal Impact: Based on current market conditions, the refinancing of the outstanding 2003 TABs is projected to generate net present value savings of approximately \$18.0 million over the remaining life of the indebtedness. The average annual savings are projected to be approximately \$1.3 million with the final maturity in September 2032. The term of the refunding

bonds is the same as the original term of the currently outstanding indebtedness and will not be extended.

Recommendations: Adopt a resolution approving the issuance of refunding bonds in order to refund certain outstanding bonds of the former Milpitas Redevelopment Agency, approving the execution and delivery of an Indenture of Trust and other related documents.

XXXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, DECEMBER 16, 2014**